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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,227	01/08/2002	Bernd Riedl	BAYER 15(1)	5714

23599                      7590                      10/15/2003

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EXAMINER

DESAI, RITA J

ART UNIT                      PAPER NUMBER

1625

DATE MAILED: 10/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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## DETAILED ACTION

### *Priority*

The correction to the priority has been noted.

### *Information Disclosure Statement*

The IDS filed 12/23/02 has been considered. However some of the references have not been considered, since they are not in the proper format, including the title and publication date, and hence a line has been drawn through them.

### *Election/Restrictions*

Applicants arguments that the groups are not burdensome to search is not found to be convincing. The core is different as explained in paper # 6 and 9 and the restriction is still FINAL.

### *Claim Rejections - 35 USC § 112*

The rejection of claims 1, 18-21, 33, 35-39, 48 and 49 under 35 USC 112 first para (scope of enablement) still stands.

Applicants arguments that they have enough examples is not convincing. The language in the claims is written in such a way that it does not encompass only the exemplified species.

The full scope of the claims as written is not enabling. The permutations and combinations of the different variables with the heteroatoms, has very little predictability in the art and would require an undue amount of experimentation to make and use the compounds commensurate in scope with these claims.

The rejection of claims 1, 18-21, 33, 35-39, 48, 49 under 35 USC 112 first as not being described, also stands. Applicants arguments are not found to be convincing. The examples just describe some of the variations and does not encompass the general description.

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The rejection still stands.

Applicants have agreed to cancel /amend claims 60 and 66 , and will address the double patenting issue, at the time when the allowable subject matter has been identified .

***Conclusion***

The claims are not allowable.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita J. Desai whose telephone number is 703-305-1868. The examiner can normally be reached on Monday - Friday, 9:30 am to 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on 703-308-4698. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

A handwritten signature in cursive script, appearing to read "R. Desai", with a long horizontal flourish extending to the right.

Rita J. Desai  
Primary Examiner  
Art Unit 1625

R.D.  
October 14, 2003